IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

LA.App..No. 392 of 2004 &
CROSS OBJECTION NO.70 OF 2005

LAR.135/2002 OF THE SUBORDINATE JUDGE'S COURT, CHERTHALA

APPELLANT: RESPONDENT NO.1:

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.MANOJ KUMAR
ADVOCATE GENERAL

RESPONDENTS: CLAIMANTS & RESPONDENT NO.2

1. SURESH KUMAR N.PILLAI, RESIDING AT
SUNIL SADANAM, PALLIPPURAM.

2. SUNIL BABU, RESIDING AT SUNIL SADANAM,
PALLIPURAM.

3. PROJECT MANAGER, CHERTHALA SUB PROJECT,
JBIC ASSISTED K.W.S. PROJECT, CHERTHALA.

BY ADV. SRI.BABU VARGHESE, SC, KWA
R1 & R2 BY DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SMT.R.UDAYA JYOTHI
SRI.M.M.VINOD
SRI.SUNIL CYRIAC, SC, KWA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 13/03/2007, ALONG WITH LAA NO. 579 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

I.A.NO.2041/2004 IN L.A.A.NO.392/2004

DISMISSED

SD/- KURIAN JOSEPH, JUDGE

13/3/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

KURIAN JOSEPH & K.T.Sankaran,JJ.

L.A.A.No.392 of 2004 & L.A.A.No.579 of 2006

Dated this the 22nd day of June, 2007

O R D E R

Kurian Joseph,J.

The benefit under Section 23(1A) of the Act is available either upto the date of the award or upto the date of taking possession, whichever is earlier. In L.A.R.No.135/2002 the property was taken possession on 12-1-1999 and the award was passed on 22-7-2002. Without taking note of the statutory provision regarding the earlier date, the Reference Court has granted Section 23(1A) benefit from the date of the notification till the date of the award. The claimants are obviously not entitled for that. Therefore, the judgment and decree in L.A.R.No.135/2002, which is under appeal in L.A.A. No.392/2004 filed by the State and L.A.A.No.599/2006 filed by the Requisitioning Authority, is set aside. The benefit of 12% of the compensation is granted only from the date of Section 4(1) notification till the date of taking possession, ie. 12-1-1999. The judgment dated 13-3-2007 in L.A.A.No.392/2004 and L.A.A.No.579/2006 is suo motu reviewed and the same would stand modified to the above extent.

(KURIAN JOSEPH, JUDGE)

(K.T.SANKARAN, JUDGE)

ahg.